

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

THE UNITED STATES OF AMERICA * Crim. No. GJH-14-0083
* v. * Civil No.
* ANTONIO LAMAR COOPER *

* * * * *

SUPPLEMENTAL AUTHORITY

Petitioner, through undersigned counsel, supplements his pending petition under 28 U.S.C. § 2255 with the following precedent, which reinforces that his conviction[s] under 18 U.S.C. § 924(c) are now void.

In *Sessions v. Dimaya*, __ U.S. __, 138 S. Ct. 1204 (2018), the Supreme Court held that the residual clause defining a “crime of violence” under 18 U.S.C. § 16(b) is void for vagueness in violation of due process. Because the residual clause defining “crime of violence” under 18 U.S.C. § 924(c)(3)(B) is identical to § 16(b) and operates in precisely the same way (with the same categorical approach and ordinary case inquiry) that applies to § 16(b), § 924(c)(3)(B) is also unconstitutionally void. Indeed, relying on *Dimaya*, the Fourth Circuit held exactly as such in *United States v. Simms*, 914 F.3d 229 (4th Cir. 2019). Three other circuits have also reached the same conclusion post-*Dimaya*. See *United States v. Davis*, 903 F.3d 483, 495-86 (5th Cir. 2018) (per curiam), cert. granted, __ U.S.__, __ S. Ct. __, 2019 WL 98544 (U.S. Jan. 4, 2019) (No. 18-431); *United States v. Eshetu*, 898 F.3d 36, 37 (D.C. Cir. 2018) (per curiam); *United States v. Salas*, 889 F.3d 681, 684, 684-86 (10th Cir. 2018). This Court must do the same.

However, to be clear, the Supreme Court will give the last word on whether the § 924(c) residual clause is unconstitutionally void in *Davis*, Case No. 18-431. This decision is expected by the end of the Supreme Court term in June. As a result, undersigned counsel has no opposition to Petitioner's § 2255 petition being stayed until then. The government has also represented to undersigned counsel that it agrees with such stay.

Respectfully submitted,

JAMES WYDA
Federal Public Defender

_____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of April 2019, a copy of the foregoing motion was delivered via electronic filing to David I. Salem, Esq. Assistant United States Attorney, Office of the United States Attorney, Baltimore, Maryland, 21201.

/s/
PARESH S. PATEL
Assistant Federal Public Defender